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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Gary W. Giles

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EXAMINER

HARTMAN JR, RONALD D

ART UNIT

PAPER NUMBER

2121

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/981,949	Applicant(s) GILES ET AL.	
	Examiner Ronald D. Hartman Jr.	Art Unit 2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) 26-48 and 72-75 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 and 49-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Election

1. Applicant's election without traverse of Group I, consisting of claims 1-25 and 49-71, in the reply filed on 4/20/2006 is acknowledged. Therefore, the Requirement for Restriction is being made FINAL.

Claim Objections

2. Claim 1, delete "the" in line 1.

Claim 5, change "claim 5" to "claim 4". For examination purposes, this is how the claim dependency will be treated.

Claim 6, change "claim 6" to "claim 5". For examination purposes, this is how the claim dependency will be treated.

Claims 7 and 53, it would appear the applicant has meant to claim LINUX rather than LINIX. For examination purposes, the examiner will assume the applicant has meant LINUX.

Claim 20 needs a period at the end of the claim.

Claims 24 and 70, internet should be capitalized.

It would appear that claims 7-25 should depend from claim 5 rather than claim 6 since claims 7-25 serve to further limit the server(s) and to depend from claim 6 would cause conflict with claims 7-25 since claims 7-25 would have the affect of negating the features claimed by way of pending claim 6, unless of course, the applicants intention was to have more than one type of program running on the server(s).

Claim 49, step b), it would appear that the applicant meant to claim "connected to the server", rather than "connected to the computer".

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12, 16, 58 and 62 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 12 and 58, what is meant by PARTRAN? The examiner finds no mention of this acronym in the specification as originally filed. Since no meaningful interpretation can be made, any and all art rejections, with respect to claims 12 and 58, must be held in abeyance until such time that meaningful claims are presented.

Claims 16 and 62, what is meant by ADEPT? The examiner finds no mention of this acronym in the specification as originally filed. Since no meaningful interpretation can be made, any and all art rejections, with respect to claims 16 and 62, must be held in abeyance until such time that meaningful claims are presented.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 6-11, 15, 51-57 and 61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

To quote MPEP section 2173.05(u) Trademarks or Trade Names in a Claim:

"If the trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of the 35 U.S.C. 112, second paragraph. Ex parte Simpson, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. In fact, the value of a trademark would be lost to the extent that it became descriptive of a product, rather

than used as an identification of a source or origin of a product. Thus, the use of a trademark or trade name in a claim to identify or describe a material or product would not only render a claim indefinite, but would also constitute an improper use of the trademark or trade name."

That being said, claims 3 and 51 are reciting "JAVA"; claims 6 and 52 are reciting "UNIX"; claims 7 and 53 are reciting "LINUX"; claims 8 and 54 are reciting "Windows"; claims 9 and 55 are reciting "DOS"; claims 10 and 56 are reciting "Macintosh OS"; claims 11 and 57 are reciting "CATIA" and claims 15 and 61 are reciting "AutoCAD", all being products which appear to represent subject matter which is trademarked.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-25 are rejected under 35 U.S.C. 101 as being directed towards non-statutory subject matter. That is, claims 1-25 claim a "software product" which is clearly non-statutory since this is software per se, subject matter deemed to be non-statutory in nature. Therefore, for examination purposes, the examiner will provide a system entailing the functions claimed by the software product of claim 1-25.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-5, 13-14, 17, 19-25, 49-51, 59-60, 63 and 65-71 are rejected under 35 U.S.C. 102(e) as being anticipated by Myers Jr. et al., U.S. Patent No. 6,961,687.

As per claim 49, Myers Jr. et al. teaches a system comprising:

- a computer network comprising a server;
- at least one remote computer, connected to the server, to allow

communication with the server;

- a plurality of software servers containing data incident to manufacturing and communicatively connected to the network; and

Examiner Note:

As per these first 3 limitations, it would appear that a network comprised of plurality of servers communicating with a remote computer is adequate to anticipate these features. Applicant's attention is directed to Figure 6 of Myers Jr. et al. Also, attention is also directed to C12 L28-31.

Continuing with the analysis of claim 49,

- a software product comprising a structured data exchange (e.g. As best understood, and in light of the applicants disclosure, specifically [0045] in which the following is disclosed, "The Structured Data Exchange 72 is the mediating language between the several legacy systems within the distributed computer environment. If the Graphic User Interface 70 is the two-way communications portal between the system and the individual user, there must be a translation means between the uniform language of the graphic user interface 70 that will interpret the signals the interface generates into requests for the legacy programs as objects.", it would appear the system of Myers et al. inherently possesses this feature since a two-way portal, between a system and an individual is utilized, and therefore there must exist a translation means so as to convert from the language of client into a language used by the system, at least based on the system depicted by Figure 6), wrappers for

communication between the servers and the structured data exchange (e.g. Figure 6 elements "RMI interface" and "CORBA Interface"), and a graphic user interface generator for displaying information from the structured data exchange (e.g. Figure 6 element 602).

As per claim 1, the rejection of claim 49 is applied equally herein since pending claim 1 is broader than claim 49 since claim 1 only claims the software product.

As per claims 2 and 50, Myers Jr. et al. further teaches the utilization of HTML (e.g. C12 L33).

As per claims 3 and 51, Myers Jr. et al. further teaches the utilization of JAVA (e.g. C12 L34-35).

As per claims 4-5, 25 and 71, the rejection of claim 49, from above, is applied equally herein to address a network infrastructure and a plurality of servers.

As per claims 13-14, 17, 59-60 and 63, Myers Jr. et al adequately discloses the server(s) being a manufacturing enterprise system, a workstation management system, a scheduling application (e.g. Figure 6, Abstract, C1 L59- C2 L5 and C3 L25-33).

As per claims 19 and 65, Myers Jr. et al. also teaches a parts catalog (e.g. C11 L28-42).

As per claims 20 and 66, Myers Jr. et al. also teaches an assembly procedure library (e.g. C19 L45-57).

As per claims 21 and 67, Myers Jr. et al. further teaches a warehouse management program (e.g. using the collaborative engineering environment for suppliers; C5 L35 – 43).

As per claims 22 and 68, Myers Jr. et al further teaches a human resources management program (e.g. using the collaborative engineering environment for linking support engineers to process of design; C5 L35 - C6 L2).

As per claims 23 and 69, Myers et al. further teaches a benefits management software program (e.g. using the collaborative engineering environment for cost determinations; Abstract).

As per claims 24 and 70, Myers Jr. et al. further teaches the utilization of the Internet (e.g. title).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 18 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers Jr. et al., as applied to claim 1 above, and further in view of Official Notice.

As per claims 18 and 64, Official Notice is taken with respect to email as it is a feature notoriously well known in the art of communications between computers and its incorporation would have been obvious to one of ordinary skill in the art in order to provide a simple way of communicating with the remote computer.

11. Claims 6-11, 15, 52-57 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers Jr. et al., as applied to claims 1 and 49 above, and further in view of Official Notice.

As per claims 6-11, 15, 52-57 and 61, Official Notice is taken with respect to servers running the Trademarked software programs of UNIX, LINUX, Windows, DOS, Macintosh OS, CATIA, and AutoCAD as they are programs that were all well known at the time the invention was made, and their incorporation would have been obvious since they all represent well known programs for operating a service such as a server or a program utilized by the server for providing resource management functions, and this would have been obvious to one of ordinary skill in the art at the time the invention was made since this is precisely what Myers Jr. et al. aims to achieve, that is, managing resources in a manufacturing environment.

As for UNIX, LINUX, Windows, DOS and Macintosh OS, these programs are believed to be so notoriously well known in the art that a reference teaching these features or showing them used is not necessary.

As for CATIA and AutoCAD, the applicant's attention is directed to Hoskins et al., U.S Patent No. 6,108,662 in which enterprise wide control is taught and wherein CATIA and AutoCAD is utilized, this reference is provided as support for the examiners assertion of Official Notice to show that CATIA and AutoCAD were both well known at the time the invention was made with respect to resource planning and manufacturing resource management.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D. Hartman Jr. whose telephone number is (571) 272-3684. The examiner can normally be reached on Mon.-Fri., 11:00 - 8:30 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

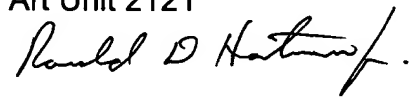
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Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald D Hartman Jr.

Patent Examiner

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A handwritten signature in black ink, appearing to read "Ronald D Hartman Jr.", with a stylized flourish at the end.

April 26, 2006

RDH